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ABSTRACT

To help transfer communication theory to the real world, the University of Central Florida (Orlando) has applied communication theory and social science research techniques to answer questions raised by attorneys, judges, and others interested in the dynamics of the legal process. The social scientific techniques have thus far been applied in cases where the defendant could afford the considerable expense of population sampling or where the pretrial publicity increased the likelihood of jurors having prejudicial attitudes. To earn the respect of the nonacademic business community, communication specialists must be able to translate research language in a way that is meaningful. To help prepare communication students for nonteaching vocations where they could learn to solve problems that involve communication and other human factor variables, students should work actively with industry professionals on various projects. Another way to meet industry needs is to introduce students to those needs through intern programs. Theory and research can be brought together by placing students in the field for 6 months or a year to (1) learn what industry's problems are, (2) apply their theoretical tools in solving those problems, (3) collect data using available technology, and, hopefully, (4) reach practical, relevant, and realistic solutions. (HOD)

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THE APPLICATION OF COMMUNICATION THEORY AND RESEARCH IN THE LEGAL COMMUNITY

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THE APPLICATION OF COMMUNICATION THEORY AND RESEARCH

IN THE LEGAL COMMUNITY

The 1966 publication of The American Jury provides a logical starting point for a discussion of the interaction between the Communication and Legal professions. In the preface of their pioneering work, Kalven and Zeisel stated the purpose of their project and eloquently expressed the intent of those who followed their lead. They sought "to bring together into a working partnership the lawyer and the social scientist... to marry the research skills and fresh perspectives of the one to the socially significant problems of the other, and in the end to produce a new scholarship and literature for both" (p. v).

The important phrase contained in their ambitious objective is "working partnership." The two professions must work together with mutual respect and cooperation if the efforts of each are to be beneficial to the other. This mutuality has characterized our experience at the University of Central Florida since 1974 when we began applying communication theory and social science research techniques to answer questions raised by attorneys, judges and others interested in the dynamics of our legal process.

The question, "How do you transfer classroom theory to the real world?" can be answered best by citing some examples of the kinds of problems attorneys face and how social scientists have helped solve them.

One phase of a trial that challenges defense and prosecuting attorneys equally is voir dire. This is the portion of the trial where potential jurors are questioned to determine their suitability to sit as jurors, hear the evidence in the case and render a verdict.

The relationship between voir dire and the deliberation process is important and obvious. Attorneys for the prosecution and the defense select those persons from the jury venire who will determine the final verdict. Yet the precise role each member of the jury will play in the deliberation process defies specification. Voir dire requires a combination of probability sampling, intuition and blind luck. For during the course of the trial and

until a verdict is rendered, a small group of former strangers develops a group history, discovers an identity, and interacts with one another to establish member roles and group structure. This dynamic process can be neither exactly predicted nor completely controlled.

From a different perspective, generalization to different cases in different sections of the country and under different conditions suggests inferential caution. Each situation contains a unique combination of variables; the crime, victim, defendant, geographic region and jury composition. Demographic surveys predicted women would be more sympathetic to the defendant in Harrisburgh, Pennsylvania and Camden, New Jersey trials but less friendly in Gainesville, Florida (Kahn, 1974).

The advocate traditionally has three specific objectives in voir dire. The screening of venire members should 1. identify those individuals who are qualified to serve as jurors, 2. those who hold attitudes, beliefs and values that may bias them for or against the defendant or the state and 3. those whose background or experience may provide grounds for a peremptory challenge.

Suggs and Sales suggest two other judically unacceptable voir dire purposes; ingratiation and indoctrination (Suggs and Sales, 1978) Webster tells us that to ingratiate means "to commend, to favor, be pleasantly persuasive." Now this may be judically unacceptable in voir dire but it is extremely important to persuasion.

The point about ingratiation is that the process of persuasion does not begin with the lawyer's opening arguments. And while it may be judically unacceptable "to win the favor of potential jurors during voir dire, it will be impossible to avoid creating some positive or negative impression of the speaker as a person whose credibility the jurors determine.

A second communication purpose that may begin with voir dire is indoctrination. Again the term has a negative connotation for many, but it is difficult, if not impossible, to avoid in voir dire.

In essence, the persuasive process begins before the jury is ever selected. It begins before the jurors even enter the courtroom. High publicity trials only push back the point in time when the elements of persuasion begin. This occurs, of course, as the venire learns the particulars of the case through the media before prospective jurors have been called for jury duty!

In December 1979, Raymond Buchanan, my colleague at the University of Central Florida; and I investigated public knowledge and attitudes about Theodore Bundy and the Kimberly Leach case. Bundy was scheduled to be tried early in 1980 for the murder of the 12-year-old Lake City girl. Our concern was not to assist with voir dire, but to assess exposure to the media, knowledge and attitudes about Bundy and the case and obtain related demographic information.

Our sample had high exposure to the Sentinel Star, the only local daily newspaper. Only 21% indicated they read the paper less than twice a week and 8% stated they did not read the Sentinel at all. Similar findings occurred for TV news programs. Over 90% watched local television news 3 or more times per week. Only 2% claimed to not watch television news at all. Only one-third of the sample recognized the name Kimberly Leach, 98% said they recognized the name of Ted Bundy.

This was a major finding in the survey. If your definition of what constitutes an impartial jury requires that jurors know nothing about the case or the defendant, more than 600 citizens would be required for the venire in this trial.

Another interesting finding of our survey concerned the relationship between prior convictions and present guilt. When respondents indicated that they knew Bundy had been found guilty of the Chi Omega Murders, they were then asked: Is this a strong indication that he committed another murder of which he is accused? Thirty-one percent indicated that yes, his prior conviction was a strong indication of guilt in another murder.

But when respondents who stated they had not followed the Bundy trial were asked hypothetically: "If a person were convicted of murder, in your opinion, is this a strong indication that he committed another of which he is accused?", only 15% believed that a prior conviction for murder was a strong indication of guilt for another murder of which he is accused. Thus, when the defendant, Theodore Bundy, was specifically linked with prior convictions, twice as many respondents thought it eas an indication of additional guilt as when the question was hypothetical.

The Miami and Orlando trials of Ted Bundy are recent examples of how social scientists have been asked to join with attorneys to prepare cases for trial. Social Scientific techniques have thus far been applied in cases where the defendant could either afford the

considerable expense of population sampling or where the pretrial publicity increased the likelihood of jurors having prejudicial attitudes. For example, New York media consultant Marty Herbst assisted the defense attorneys who selected the jurors who acquitted John Mitchell and Maurice Stans of conspiracy, obstruction of justice and perjury. The Mitchell-Stans trial, however, illustrates how social research data are used. Peter E. Flemming, Jr., John Mitchell's chief counsel, reported that the Herbst data only supported the judgments of the defense counsel. Flemming stated: "We could act with a greater degree of confidence," (Kahn, 1974, p. 19).

The probabilistic nature of the social sciences leads to the next question concerning the application of communication theory and research. "What are the qualifications necessary for an effective communication specialist?" If we are to earn the confidence and respect of the non-academic business community, we must be knowledgeable in our field and theirs, we must be able to translate our research language to theirs and our ability must reflect state of the art technology. This is an impossible assignment for the nation's colleges and universities to handle on their own in a time of increased operating expense and reduced funding. The academic community must have the help and cooperation of business and industry. By working closely with area companies, governmental agencies and non-profit organizations we gain a perspective that is impossible from inside the classroom. We also learn to communicate with non-academic professionals on a level that is meaningful to them. But most important, it provides our students with the opportunity to use the state of the art technology they will encounter when they begin their professional careers.

The third important question communication researchers must address I will phrase in general rather than specific terms. "What are the opportunities for applying communication skills in other professional areas?" Before we can identify opportunities, however, we must determine what the needs of business and industry are. "How can communication theory and research be applied to the spectrum of technical and non-technical business environments?"

I found an answer to this question one afternoon on a tennis court. A friend of mine, Bruce McDonald, has a B.A. in Psychology and a Ph. D. in Engineering. Today, he is a human factors specialist in Orlando with his own consulting firm. After tennis one day I asked Bruce how I could prepare my communication students for non-teaching vocations where they could solve problems that involve communication and other human factors variables. He answered with a syllogism:
Engineers run America.
America runs the world.
Therefore: Do what engineers do.

My friend may not earn high marks in formal logic, but he makes good sense. Success in the leading Engineering schools in the U.S. is not measured by high student evaluations or outstanding teaching awards. Success is measured by a person's ability to generate research dollars. Dollars are converted to student assistantships. Students are turned into professional engineers. By the middle of the student's senior year, the faculty member with whom the student works has placed the student in industry, often with the grant sponsor.

Student clubs invite industry spokesmen to talk with them three or four times each year. This gives the students an opportunity to hear first hand what industry is doing, what the problems are and what skills are needed. It also allows the industry representative to look over the crop of students. At the University of Central Florida, for example, student members of the Florida Public Relations Association actively work with industry professionals on club projects. By the time the students graduate, they have had an internship with one or more agencies and have known their future employer for one or two years on a professional basis.

In the last four years an annual celebrity roast and toast sponsored by the local chapter of FPRA has raised over $65,000 in scholarship money for UCF students.

Our department has organized a "Community Advisory Committee" to help us be more responsive to the professional demands in the Central Florida area and, at the same time, familiarize industry representatives with our program and our students.

Another way to meet industry needs is to introduce our students to those needs in actual work environments. This allows the student the opportunity to apply classroom theory to the real world situation. Internships are neither innovative nor difficult to establish. The November, 1981 issue of SPECTRA has a list of current articles on how to implement intern programs. The advantages of such programs are clearly stated:

> "Internships provide a way for students to apply their knowledge to situations in the working world. They not only increase students' attractiveness to potential employers, but internships also increase the attractiveness of communication departments to potential majors/minors"(p. 5).

My proposal is to place graduate students in the field for six months or a year to learn what industry's problems are, apply their theoretical tools in solving those problems, collect data using available technology and, hopefully, reach practical, relevant and

realistic solutions. In this way we can bring theory and research together in law offices, medical facilities, governmental agencies, businesses and industrial setting across the country.

In his book, Group Dynamics (1981), Shaw makes three suggestions for future activities in group dynamics. First there is a need to place greater emphasis upon the significance of the research problem than has been done in the past. Future researchers should be willing to expand their outlook with respect to both appropriate areas of research and possible application of their findings to the problems of society. Finally, there must be greater concern for theory. Theory and research are equal partners in the advancement of knowledge (p. 450-451).

I support Shaw's suggestions and believe that they can be realized best through application of communication theory in the real world, with qualified communication researchers responding to the needs of the corporate marketplace.

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